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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,504	05/12/2006	Hiroyuki Tsunoda	14875-153US C1-A0320Y2P-U	8020
26161	7590	12/16/2008	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			SPECTOR, LORRAINE	
			ART UNIT	PAPER NUMBER
			1647	
			NOTIFICATION DATE	DELIVERY MODE
			12/16/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10551504 A0320Y2P-U	5/12/06	TSUNODA ET AL.	14875-153US C1-

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**EXAMINER**

Lorraine Spector

ART UNIT	PAPER
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1647

20081208

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

Please see attached.

/Lorraine Spector/  
Primary Examiner  
Art Unit: 1647

Art Unit: 1647

This application was restricted under 35 U.S.C. §121 and 372 in an office action mailed 6/27/2008. In the reply filed 9/29/08, election as made of Invention IV, claim 32, drawn to an antibody that recognizes the region of amino acids 26-274 of human MPL (receptor). The portion of applicants traversal that applies to Invention I has been fully considered. *As the claims appear now*, the Examiner will rejoin claims 1-8, 11-15, 33, 42 and 43. Claims 9, 10, 34-37 and 39-41 are withdrawn from prosecution.

### ***Non-Responsive Election***

The reply filed on 9/28/08 is not fully responsive to the prior Office Action because:

According to applicants response, in the amended claims, Group IV should comprise claims 16-29, 32 and 38. Applicants argue that claims 16-29 are all “embodiments” of the antibody of the independent claim, claim 32. Applicants are reminded that this application is a filing under 37 CFR §1.312, in which unity was found to be lacking. Similarly, unity is lacking for claim 32, as antibodies that bind that region of MPL are known in the art, and therefore cannot form the basis of unity. Only the genus, as in claims 32 and 38, and the elected species, SEQ ID NO: 36-38, 93-95, 230, 232, 234, and 236, and 239, 241, 243 and 245 will be examined, unless the generic claim is found allowable.

Nonetheless, the election of 9/28/08 is incomplete, and therefore non-responsive. Applicants were clearly required to elect a single ultimate species to which examination would be restricted in the event that the generic claim were found non-allowable, which they have not done. Specifically, it would seem that the species of claims 26-29 are the ultimate species of antibodies, whereas applicants have elected CDRs and framework regions. Applicants are required to elect a single ultimate species, including all included CDR's and Framework regions, and to further disclose which CDRs and framework regions correspond to the ultimate species (not the other way around, as was done in the response of 9/28/08). See page 3, third through fifth paragraphs of the restriction requirement.

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

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The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

### *Conclusion*

It is suggested, for clarity's sake, that the portions of the claims not be numbered, but given letters or roman numerals. For example, instead of claim 16 parts 1-17, claim 16 could have parts a-q, or i-xvii.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Lorraine M. Spector. Dr. Spector can normally be reached Monday from 9-5, and Tuesday, Thursday and Friday, 9:00 A.M. to 3:00 P.M. at telephone number 571-272-0893.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's supervisor, Dr. Manjunath Rao, at telephone number 571-272-0939.

Certain papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Official papers filed by fax should be directed to **571-273-8300**. Faxed draft or informal communications with the examiner should be directed to **571-273-0893**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit 1647